

Appl. No. 10/719,321
Atty. Docket No. AA551C
Amdt. dated November 13, 2006
Reply to Office Action of July 13, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-10 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 has been amended to include that the absorbent articles are individually wrapped. Support for this amendment can be found at page 6, lines 12 – 16.

Claim 6 has been amended to correct a typographical omission from a previous amendment.

New Claims 11 and 12 have been added. Support for the new claims can be found at page 7, lines 24-27.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §103(a) Over [reference]

The rejections of Claims 1-10 under 35 U.S.C. are maintained for the reasons of record.

Claims 1, 3-4, and 7

Claims 1, 3-4, and 7 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. Des. 312,208 to Sorkin.

Applicants maintain that the claims are nonobvious over Sorkin. The claimed invention, as recited in Claim 1, for example, requires at least two limitations:

1. at least two different types of absorbent articles having different physical properties or structures; and
2. an indication means disposed on the wrapper of the absorbent articles.

Even if color is a “physical property” as alleged in the Office Action, Sorkin fails to disclose or suggest every element of the claimed invention. If, as the Office Action

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maintains, color is a physical property, then Sorkin fails to teach or disclose an "indication means" as claimed. Each type of claimed article has a respective indication means, so if "color" is the "physical property", then there must be some other "indication means" found in Sorkin to indicate this physical property.

Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness in accordance with MPEP 2143 because it fails to identify every element of the claimed invention, and fails to provide any motivation or suggestion to modify Sorkin to achieve the claimed invention.

Accordingly, Applicants respectfully request the 35 USC §103(a) rejection of Claim 1 and its dependent claims over Sorkin be withdrawn.

Claims 1, 2 4-6, and 8-10

Claims 1, 2, 4-6, and 8-10 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,865,322 to Miller in view of U.S. Patent 3,306,437 to Nelson.

Claims 8 and 9 are cancelled.

With respect to Claims 1, 2, 4-6 and 10, the Applicants' previous arguments presented in the reply dated April 25, 2006 are maintained and incorporated by reference herein. The arguments that Nelson is nonanalogous art is maintained here. Nelson is clearly nonanalogous art and needs little explanatory support beyond what is currently on file. However, in order to make the case more clear, the Applicants make the following arguments:

As already stated, for Nelson to be analogous art, the Examiner must show that Nelson is either in the field of the applicant's endeavor (it is not), or is reasonably pertinent to the problem with which the inventor was concerned (it is not). Neither of these requirements are met in the instant rejection.

Specifically, Applicants maintain that Nelson's "cartons for goods to be dispensed" including goods such as "tray kits in hospitals" having, e.g., "individual salt and pepper dispensers" is not in the Applicant's field of endeavor. Nelson speaks for itself on this point. See, column 3, lines 41-47.

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Moreover, Nelson is concerned with a different problem. The present invention is directed to permitting a consumer to see the indication means of at least two types of absorbent articles through a window on an outer package. Nelson is not directed to this problem, and does not disclose the claimed solution. Nelson discloses color on the package or shipping carton (column 3, line 57) of one type of packaged product (see, FIG. 2), and color on the one type of packaged item (e.g., item 20 in FIG. 4). But Nelson does not disclose two types of products, and does not disclose that the color on the packaged item can be seen through a window on the package. From the disclosure of Nelson, it is clear, in fact, that the color on the packaged item cannot be seen through the outer package. Furthermore, the color on the packaged item cannot be seen even when the package is open, as in FIG. 2.

For the reasons above, Applicants submit that the combination of Miller and Nelson is an improper combination, and even if it was a proper combination, the combination fails to teach or suggest all the claimed limitations.

Accordingly, Applicants respectfully request that the the rejection of Claims 1, 2, 4-6 and 10 under 35 USC §103(a) as being unpatentable over U.S. Patent 5,865,322 to Miller in view of U.S. Patent 3,306,437 to Nelson, be withdrawn.

Claims 11-12

Applicants submit that new Claims 11 and 12 are allowable over the cited references for the same reasons as expressed above for Claims 1-10.

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. Applicant's attorney respectfully requests that the rejections of the claims be reconsidered in light of the claim amendments and arguments set forth herein and that claims 1-7 and 10-12 be allowed. Early and favorable action in the case is respectfully requested.

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Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Signature

Roddy M. Bullock

Typed or Printed Name

Registration No. 37,290

(513) 634-6961

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Customer No. 27752